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6 Attorneys for Plaintiff  
 7 United States of America

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,	)	Civil No. 08cv1133-JM(WMc)
	)	
11 Plaintiff,	)	DECLARATION OF AND
	)	REQUEST FOR CLERK'S
12 v.	)	ENTRY OF DEFAULT AS
	)	TO ALL POTENTIAL
13 ONE 1999 KENWORTH W900 TRACTOR,	)	CLAIMANTS
CA LICENSE NO. 9D53724,	)	
14 VIN 1XKWDB9X5XJ825034,	)	
ITS TOOLS AND APPURTENANCES,	)	
15	)	
ONE 1994 WABASH NATIONAL	)	
16 RCA-102-15 TRAILER,	)	
AZ LICENSE NO. L87023,	)	
17 VIN 1JJV482S8RL206936,	)	
ITS TOOLS AND APPURTENANCES,	)	
18	)	
Defendants.	)	
19	)	

20 I, Bruce C. Smith, Assistant United States Attorney for the Southern District of California,  
 21 hereby request a clerk's entry of default in this case for the following reasons:

22 On June 25, 2008, a verified complaint was filed in the above action in the United States  
 23 District Court for the Southern District of California against the above defendant. On July 2, 2008,  
 24 the defendant was seized and arrested by a duly authorized United States Marshal, who thereafter  
 25 took possession and custody of the defendant, pursuant to the Court's Order appointing the  
 26 United States Marshal custodian, dated June 26, 2008.

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On June 25, 2008, Notice of Judicial Forfeiture Proceedings and a copy of the Complaint for Forfeiture were sent by certified mail to the following potential claimant at his addresses of record:

<u>Name and Address</u>	<u>Article No.</u>	<u>Result</u>
Gerardo Beltran 1164 Goldfield Way Heber CA 92249-9501	7004 2510 0003 3017 4441	Signed for as received on or about 6/30/08
Gerardo Beltran c/o Vance B. McAlister, Esq. Ewing Johnson & Graves 636 State Street El Centro CA 92243	7004 2510 0003 3017 4434	Signed for as received on or about 6/27/08

On July 8, 9 and 11, 2008, pursuant to Rule G(5) of the Supplemental Rules for Admiralty or Maritime and Claims and Asset Forfeiture Actions (hereinafter, "Rule G(5)"), notice was published in the San Diego Commerce newspaper. In addition, on June 26, 2008, Notice of Civil Forfeiture was posted on an official government internet site ([www.forfeiture.gov](http://www.forfeiture.gov)) for thirty (30) consecutive days, after which a Declaration of Publication was issued on July 28, 2008.

On July 31, 2008, Gerardo Beltran submitted a filing to this Court entitled, "Response On Complaint For Forfeiture." This Court ordered it deemed filed on July 25, 2008, *nunc pro tunc*. Claimant is appearing *pro se*. Said pleading was claimant's first response to the plaintiff's complaint for forfeiture. Plaintiff interprets claimant's July 25, 2008 filing to be a claim within the meaning of Rule G(5).

Pursuant to Rule G(5), an answer to the complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure must be filed and served within twenty (20) days after filing the claim. Such answer was therefore due on or before August 14, 2008. To date, no answer to the complaint has been filed or served by Gerardo Beltran. Further, no claims or answers have been filed by any other claimant.

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1 For the foregoing reasons, it is requested that the Clerk of the Court enter a default against  
2 the defendant property as to any and all potential claimants.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on this 29th day of August, 2008.

5  
6 s/ Bruce C. Smith  
7 BRUCE C. SMITH  
8 Assistant U.S. Attorney  
9 Attorneys for Plaintiff  
10 United States of America  
11 E-mail: [bruce.smith@usdoj.gov](mailto:bruce.smith@usdoj.gov)  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. 08cv1133-JM(WMc)
	)	
Plaintiff,	)	CERTIFICATE OF
	)	SERVICE
v.	)	
	)	
ONE 1999 KENWORTH W900 TRACTOR,	)	
CA LICENSE NO. 9D53724,	)	
VIN 1XKWDB9X5XJ825034,	)	
ITS TOOLS AND APPURTENANCES,	)	
et al.,	)	
	)	
Defendants.	)	

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IT IS HEREBY CERTIFIED that:

I, Bruce C. Smith, am a citizen of the United States and am at least eighteen years of age.  
My business address is 880 Front Street, Room 6293, San Diego, CA 92101-8893.

I am not a party to the above-entitled action. I hereby certify that I have caused to be mailed  
the foregoing, by the United States Postal Service, to the following non-ECF participant in this  
case:

- Gerardo Beltran  
G and A Beltran Trucking  
1164 Goldfield Way  
Heber CA 92249-9501,

the last known address, at which place there is delivery service of mail from the United States  
Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 29, 2008.

S/ Bruce C. Smith  
BRUCE C. SMITH